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Class Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IGNACIO PEREZ, on Behalf of Himself
and All Others Similarly Situated,

Plaintiff,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No. 4:16-cv-03396-YGR

**DECLARATION OF SCOTT A. BURSOR
IN SUPPORT OF PLAINTIFF'S
MOTION FOR THE COURT TO
APPROVE THE PROPOSED NOTICE
TO CLASS MEMBERS OF PENDENCY
OF PLAINTIFF'S MOTION FOR AN
AWARD OF ATTORNEY'S FEES,
COSTS AND EXPENSES, AND SERVICE
AWARD FOR THE CLASS
REPRESENTATIVE**

Judge: Hon. Yvonne Gonzalez Rogers

1 I, Scott A. Bursor, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California. I am a
3 member of the bar of this Court, and I am a partner at Bursor & Fisher, P.A., which was appointed
4 Class Counsel in this action. See ECF No. 81. I make this declaration in support of Plaintiff's
5 Motion for the Court to Approve the Proposed Notice to Class Members of Pendency of Plaintiff's
6 Motion for an Award of Attorney's Fees, Costs and Expenses, and Service Award for the Class
7 Representative.

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of the proposed Long Form
9 notice, which will also be used to update the content of the notice website –
10 www.rashcurtislawsuit.com.

11 3. Attached hereto as **Exhibit 2** is a true and correct copy of the proposed Email
12 Notice.

13 4. Attached hereto as **Exhibit 3** is a true and correct copy of the proposed Post Card
14 Notice.

15 I declare under penalty of perjury under the laws of the United States and the State of
16 California that the foregoing is true and correct. Executed on October 7, 2019 at Miami, Florida.

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18 /s/ Scott A. Bursor

19 Scott A. Bursor
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United States District Court for the Northern District of California

If You Received Wrong-Number Calls From Rash Curtis & Associates, A Class Action Lawsuit May Affect Your Rights

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A lawsuit has been filed against Rash Curtis & Associates (“Defendant” or “Rash Curtis”), claiming that they placed wrong-number calls using an autodialer and/or an artificial or prerecorded voice to individuals without prior consent in violation of the Telephone Consumer Protection Act (“TCPA”). The Court has allowed the lawsuit to be a class action on behalf of all persons who received a call on their cellular telephones from June 17, 2012 through April 2, 2019 (the “Class Period”) from Rash Curtis’ autodialers or who received a prerecorded message or robocall whose telephone number was obtained by Rash Curtis through skip tracing. Excluded from the class are all persons who provided their cellular telephone in an application for credit to a creditor that has opened an account with Defendant in such debtor’s name prior to Defendant first placing a call using an automatic telephone dialing system and/or prerecorded voice, in addition to entities related to Defendant, Defendant’s agents and employees, and any judge or magistrate judge to whom this action is assigned.
- After a trial in May 2019, a jury found that Rash Curtis was liable for making 534,698 calls in violation of the TCPA. On September 9, 2019, the Court entered judgment in favor of the Plaintiff and class members in the amount of \$267,359,000. However, there is currently no money to distribute. Rash Curtis has the right to appeal the jury’s verdict.
- The purpose of this notice is to tell you that the lawyers who brought the lawsuit (“Class Counsel”) have requested an award of attorney’s fees of \$89,116,333.33 (which is 33.33% of the \$267,359,000 judgment) and that the lead Plaintiff has sought a service award of \$50,000 for his efforts of bringing and litigating the case. The lawyers have also asked to be reimbursed \$314,179.97 for the costs and expenses they paid to pursue the lawsuit.
- The Court will decide how much to award Class Counsel and the Plaintiff. Any award will reduce your payment amount.
- You have the right to object to the attorney’s fees request for fees and to the Plaintiff’s service award. Objections must be in writing, signed, and postmarked by _____.

YOUR LEGAL RIGHTS AND OPTIONS

WHAT IS THIS?

The Court has certified this lawsuit as a class action. The Plaintiff and class members won a jury trial, and the Court has entered judgment against the Defendant in the amount of \$267,359,000. The lawyers litigating the case are seeking 33.33% of the judgment as attorney’s fees, and the Plaintiff is

**Questions? Visit www.rashcurtislawsuit.com
or contact Class Counsel at info@bursor.com**

	seeking \$50,000 as a service award. The lawyers have also asked to be reimbursed \$314,179.97 for the costs and expenses they paid to pursue the lawsuit.
DO NOTHING	<p>Stay in the lawsuit. Do not object to Class Counsel's request for attorney's fees and Plaintiff's request for a service award.</p> <p>By doing nothing, you stay in the lawsuit and keep the possibility of getting money or benefits that may be collected from this lawsuit. But, you give up any right to object to Class Counsel's requests for attorney's fees and the Plaintiff's request for a service award.</p>
OBJECT	<p>Object to Class Counsel's request for attorney's fees and Plaintiff's request for a service award.</p> <p>If you object, you stay in the lawsuit and keep the possibility of getting money or benefits that may be collected from this lawsuit. But, by objecting, the Court will consider your objection and may alter or deny Class Counsel's request for attorney's fees and the Plaintiff's request for a service award.</p>

- Your options – and the deadlines to exercise them – are explained in this notice. To object, you must act before **[DATE]**.
- If money or benefits are obtained from Defendant, you will be notified about how to ask for a share.

BASIC INFORMATION

1. Why did I get this notice?

This notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you. The lawsuit is known as *McMillion, et al. v. Rash Curtis & Associates*, Case No. 16-cv-03396-YGR. The “Plaintiff” in this case won a jury trial in May 2019 on behalf of himself and other class members. On September 9, 2019, the Court entered judgment in favor of the Plaintiff and class members in the amount of \$267,359,000. The lawyers who brought the lawsuit (“Class Counsel”) have requested an award of attorney’s fees of \$89,116,333.33 (which is 33.33% of the \$267,359,000 judgment), and have also sought reimbursement for their litigation costs and expenses in the amount of \$314,179.97. The Plaintiff has sought a service award of \$50,000 for his efforts of bringing and litigating the case. You can read Plaintiff’s Motion for an Award of Attorney’s Fees, Costs and Expenses, and Service Award for the Class Representative <link> at www.rashcurtislawsuit.com. The Court will decide how much to award Class Counsel and the Plaintiff.

You have legal rights and options that you may exercise before the Court decides how much to award Class Counsel and the Plaintiff. Judge Yvonne Gonzalez Rogers of the United States District Court for the Northern District of California, is overseeing this class action.

**Questions? Visit www.rashcurtislawsuit.com
or contact Class Counsel at info@bursor.com**

2. What is this lawsuit about?

The lawsuit alleges Defendant called consumers using an autodialer and/or an artificial or prerecorded voice without prior consent in violation of the TCPA.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” (in this case, Ignacio Perez) sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The named plaintiff who sued – and all the Class Members like them — are called the Plaintiffs. The company they sued (in this case, Rash Curtis & Associates) is called the Defendant. One court resolves the issues for everyone in the Class – except for those people who choose to exclude themselves from the Class.

4. Am I part of this Class?

The Court has allowed the lawsuit to be a class action on behalf of the following classes:

Skip-Trace Class 1: All persons who received a call on their cellular telephones from June 17, 2012 through April 2, 2019 from Rash Curtis’ DAKCS VIC dialer and/or Global Connect dialer whose cellular telephone was obtained by Rash Curtis through skip tracing.

Skip-Trace Class 2: All persons who received a prerecorded message or robocall on their cellular telephones [or] landline phones from June 17, 2012 through April 2, 2019 from Rash Curtis whose telephone number was obtained by Rash Curtis through skip tracing.

Non-Debtor Class 1: All persons who received a call on their cellular telephones from June 17, 2012 through April 2, 2019 from Rash Curtis’ DAKCS VIC dialer and/or Global Connect dialer whose telephone number was obtained by Rash Curtis through skip tracing and for whom Rash Curtis never had a debt-collection account in their name.

Non-Debtor Class 2: All persons who received a prerecorded message or robocall on their cellular telephones [or] landline phones from June 17, 2012 through April 2, 2019 from Rash Curtis whose telephone number was obtained by Rash Curtis through skip tracing and for whom Rash Curtis has never had a debt-collection account in their name.

Excluded from the class are all persons who provided their cellular telephone in an application for credit to a creditor that has opened an account with Defendant in such debtor’s name prior to Defendant first placing a call using an automatic telephone dialing system and/or prerecorded voice, in addition to entities related to Defendant, Defendant’s agents and employees, and any judge or magistrate judge to whom this action is assigned.

5. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in

federal courts.

More information about why the Court is allowing this lawsuit to be a class action is in the Court's Order Certifying the Class <link>, which is available at www.rashcurtislawsuit.com.

THE CLAIMS IN THE LAWSUIT

6. What does the lawsuit complain about?

Plaintiffs allege that between June 17, 2012 through April 2, 2019, Defendant made hundreds of thousands of wrong-number phone calls using an autodialer and/or artificial or prerecorded voice without prior consent. You can read Plaintiffs' Class Action Complaint <link> at www.rashcurtislawsuit.com.

7. How does Defendant answer?

Defendant denies any wrongdoing and denies the Plaintiffs' allegations. You can read Defendant's answer to the complaint <link> at www.rashcurtislawsuit.com.

8. Has the Court decided who is right?

The Court presided over a jury trial in this case in May 2019. On May 13, 2019, the jury found in Plaintiff's favor and found that the Defendant made 534,698 calls in violation of the TCPA. On September 9, 2019, the Court entered judgment in favor of class members in the amount of \$267,349,000. However, there is currently no money to distribute. Rash Curtis has the right to appeal the jury's verdict.

9. What are the Plaintiffs asking for?

At trial, Plaintiffs asked Defendant for at \$500 per wrong-number call placed to parties without prior consent. The jury found that On May 13, 2019, the jury found that the Defendant made 534,698 calls in violation of the TCPA. On September 9, 2019, the Court entered judgment in favor of the class members in the amount of \$500 per unlawful call, for a total award of \$267,349,000.

However, no money or benefits are available now because Defendant still has the right to appeal the jury's verdict and the Court's entry of judgment, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to ask for a share.

YOUR RIGHTS AND OPTIONS.

10. What happens if I do nothing at all?

You don't have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. By doing nothing, you are staying in the Class. If you stay in and

the Class recovers money or benefits, you will be notified about how to apply for a share.

However, if you do nothing now, you give up any right to object to Class Counsel's requests for attorney's fees and the Plaintiff's request for a service award.

11. How do I tell the Court if I do not like Class Counsel's request for attorney's fees or Plaintiff's request for a service award?

If you are a Class Member but do not like Class Counsel's request for attorney's fees or Plaintiff's request for a service fee, you may object. Objecting is simply telling the Court that you don't like something about the requests. The Court will consider your views. You can ask the Court to deny Class Counsel's and the Plaintiff's requests by filing an objection, or request that the Court award Class Counsel and the Plaintiff smaller awards than they are seeking.

Any objection to Class Counsel's request for fees or Plaintiff's request for a service award must be in writing. All written objections and supporting papers must be ***postmarked no later than [DATE]***, to:

Rash Curtis TCPA Litigation
c/o _____
P. O. Box _____
[City], [State], [Zip Code]

Your written objection ***must*** include:

- (1) Your full name;
- (2) Your current address;
- (3) A written statement of your objection(s) and the reasons for each objection;
- (4) Your signature;
- (5) Your telephone number;
- (6) Details regarding any calls you believe you received from Rash Curtis, including the dates of any such calls and a description of what occurred on such calls;
- (7) The case name and case number *McMillion, et al. v. Rash Curtis & Associates.*, Case No. 16-cv-03396-YGR.

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in this case?

The Court appointed the law firm of Bursor & Fisher, P.A. to represent the Plaintiff and all Class Members as "Class Counsel." More information about this law firm, their practices, and their lawyers' experience is available at www.bursor.com.

13. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will be responsible for paying that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

GETTING MORE INFORMATION

14. Are more details available?

Visit the website, at www.rashcurtislawsuit.com, where you will find the Court's Order Certifying the Class <link>, the Court's Summary Judgment Order <link>, the Plaintiffs Class Action Complaint <link>, Defendant's Answer <link>, Plaintiff's Motion for an Award of Attorney's Fees, Costs and Expenses, and Service Award for the Class Representative <link>, Declaration of Scott A. Bursor in Support of Plaintiff's Motion for an Award of Attorney's Fees, Costs and Expenses, and Service Award for the Class Representative <link>, Declaration of Ignacio Perez in Support of Plaintiff's Motion for an Award of Attorney's Fees, Costs and Expenses, and Service Award for the Class Representative <link>, Final Judgment <link>, and the Class Action Verdict Form <link>.

You may also contact the class notice administrator by email at _____, or by writing to: Rash Curtis TCPA Litigation, c/o _____, P. O. Box _____, [City], [State], [Zip Code].

PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE.

DATED: _____

**BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA**

You May Be A Class Member In A Class Action Lawsuit Against Rash Curtis & Associates

A federal court authorized this notice. This is not a solicitation from a lawyer. You are not being sued or asked to pay money.

The Lawyers for the Class Have Filed a Motion Requesting Attorney's Fees, Expenses and Costs, and a Service Award for the Class Representative. You May Object to the Request by Mailing Your Objection by [DATE]

You are receiving this notice because records show that you may be a class member in a class action lawsuit brought against Rash Curtis & Associates ("Defendant" or "Rash Curtis"). The lawsuit alleged that Rash Curtis placed wrong-number calls using an autodialer and/or an artificial or prerecorded voice to individuals without prior consent in violation of the Telephone Consumer Protection Act ("TCPA"). After a trial in May 2019, a jury found that Rash Curtis was liable for 534,698 calls in violation of the TCPA. On September 9, 2019, the Court entered judgment in favor of the Plaintiff and class members in the amount of \$267,359,000. However, there is currently no money to distribute. Rash Curtis has the right to appeal the jury's verdict.

The purpose of this notice is to tell you that the lawyers who brought the lawsuit ("Class Counsel") have requested an award of attorney's fees of \$89,116,333.33 (which is 33.33% of the \$267,359,000 judgment) and that the lead Plaintiff ("Class Representative") has sought a service award of \$50,000 for his efforts of bringing and litigating the case. The lawyers have also asked to be reimbursed \$314,179.97 for the costs and expenses they paid to pursue the lawsuit. You can get a copy of the motion for attorney's fees, costs and expenses, and a service award for the Class Representative on the case website, www.rashcurtislawsuit.com, or call the Notice Administrator at [Telephone]. Do not call the Court or Rash Curtis.

The Court will decide how much to award Class Counsel and the Class Representative. Any award will reduce your payment amount, should money eventually be available. For example, if the Court awards a 1/3 fee, your payment amount will be reduced by 1/3.

You have the right to object to the attorney's requests for fees and costs, and to the Service Award of the Class Representative. Any objection to Class Counsel's request for fees or the Class Representative's request for a service award must be in writing. All written objections and supporting papers must be **postmarked no later than [DATE]**, to: Rash Curtis TCPA Litigation c/o _____ P. O. Box _____ [City], [State], [Zip Code]. Your written objection **must** include: (1) your full name; (2) your current address; (3) a written statement of your objection(s) and the reasons for each objection; (4) your signature; (5) your telephone number; (6) Details regarding any calls you believe you received from Rash Curtis, including the dates of any such calls and a description of what occurred on such calls; and (7) the case name and case number *McMillion, et al. v. Rash Curtis & Associates.*, Case No. 16-cv-03396-YGR.

For more information, visit www.rashcurtislawsuit.com

Rash Curtis & Associates TCPA Litigation, c/o KCC

P.O. Box _____,

[City], [State] [Zip Code]

Control#: [Account ID]-[NoticeID]

[FirstName] [LastName]

[Attention]

[Address 1]

[Address 2]

[City], [State] [Zip Code]

[Country Code]

LEGAL NOTICE

You May Be A Class Member In A Class Action Lawsuit Against Rash Curtis & Associates The Lawyers for the Class Have Filed a Motion Requesting Attorney's Fees, Expenses and Costs, and a Service Award for the Class Representative. You May Object to the Request by Mailing Your Objection by [DATE]

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You have the right to object to the attorney's requests for fees and costs, and to the Service Award of the Class Representative. Any objection to Class Counsel's request for fees or the Class Representative's request for a service award must be in writing. All written objections and supporting papers must be *postmarked no later than [DATE]*, to: Rash Curtis TCPA Litigation c/o _____ P. O. Box _____ [City], [State], [Zip Code]. Your written objection *must* include: (1) your full name; (2) your current address; (3) a written statement of your objection(s) and the reasons for each objection; (4) your signature; (5) your telephone number; (6) Details regarding any calls you believe you received from Rash Curtis, including the dates of any such calls and a description of what occurred on such calls; and (7) the case name and case number *McMillion, et al. v. Rash Curtis & Associates.*, Case No. 16-cv-03396-YGR.

For more information, visit www.rashcurtislawsuit.com.